

MEMORIAL

OF MEMBERS OF

THE SOCIETY OF CINCINNATI,

PRAYING

The settlement of the claims for half-pay for life promised by the act of Congress of October, 1780, to the officers of the continental army who should serve to the end of the war, or until the time of their reduction.

JANUARY 21, 1859.—Referred to the Committee on Revolutionary Claims. Motion to print referred to the Committee on Printing.

JANUARY 27, 1859.—Report in favor of printing the usual number submitted, considered, and agreed to.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

Your memorialists, as members of the Society of the Cincinnati, (formed by our fathers at the cantonment of the American army on the banks of the Hudson, on the tenth of May, A. D. 1783, embracing all the officers of the continental army, of which the first president was General Washington,) would respectfully represent :

That they feel impelled, as sons of the revolutionary officers, to ask of your honorable body the settlement of those just and equitable claims involved in the act of Congress passed October, 1780, promising half-pay for life to the officers of the continental army who should serve to the end of the war, or until the time of their reduction.

These claims have engaged the attention of numerous Congresses, and have been in every instance favorably reported upon by the appropriate committees.

A bill providing for their liquidation has passed both Houses of Congress, though not at the same session.

Your memorialists, though gratefully acknowledging the facts detailed, deeply regret that the claims adverted to remain unadjusted.

It appears to them, as clear as the sun at noon-day, that no lapse of time and no subsequent legislation could ever impair their validity.

The act of October, 1780, formed a contract between the United States and the officers of the army as individuals, founded upon a good and valid consideration.

This contract was fulfilled to the letter on the part of the officers, in service and sufferings, which resulted in the liberty and indepen-

dence of the country. These officers thereby acquired a vested right of property, of which they could not be divested without their own free and voluntary relinquishment. By a resolution passed June, 1784, said officers were entitled to an interest of six per cent. per annum upon their yearly payments, and upon the aggregate from the date of the officer's death to the time of settlement.

Such was the contract on the part of the United States, and for the performance of such contract the faith of the nation was solemnly pledged.

Your memorialists are not unaware that on the 22d of March, 1783, an attempt was made to avoid the above mentioned contract, by an act called the commutation act, in which it was proposed to commute the life annuities specified for five years' full pay.

This act they regard as a nullity, from the fact that the proposition was never mutually assented to. There is no evidence that the officers, either as lines or as individuals, ever gave their sanction to the movement. This position is sustained by very able congressional reports.

Your memorialists consider the "commutation act" as clearly unjust. 1st. It was by no means an equivalent for the legal claims of the creditors; 2d. It inhibited the right of individual election; 3d. It operated very unequally. The inducement for acceptance on the part of an officer of sixty years of age and one of thirty was widely different.

But admitting that the "commutation act" proposed a fair consideration, and that it was assented to by the parties concerned, your memorialists must still regard it as void, because its stipulations were not fulfilled; the pledge was not redeemed. The money was not paid, nor were securities bearing six per cent. interest such as the act contemplated or the officers expected.

The government made no provision for the payment of either principal or interest for a period of some ten years, when the exigencies of most of the officers had compelled them to part with their certificates at a ruinous discount.

Their highest market value at the time of their issue was one-eighth of a dollar, their legal value one-fortieth of a dollar.—(See acts of April 18 and June 20, 1780.) The loss in interest alone in the commutation of a captain who lived until 1828 was \$2,536, (see records of Register's office, as quoted by Mr. Tucker, of New Jersey, May 15, 1828,) and this amount was saved by the government.

In August, 1790, when most of the certificates had been bought up by speculators, Congress passed an act permitting holders of certificates to fund them at a loss of thirty per cent. on a term of time, requiring about forty years for their liquidation.

Such was the very partial execution of the commutation act.

Your memorialists cannot avoid the conviction that the officers did not commute their half-pay by accepting the so-called commutation certificates, they in no respect having been in conformity to the act; nor are they singular in this conviction.

The reports of Mr. Madison, in 1783; Mr. Nelson, in 1810; Mr.

Johnson, in 1818; Mr. Sargent, in 1819; Mr. Hemphill, in January, 1826; Mr. Burgess, in May, 1826, and February, 1828; Senator Walker, in 1852; Senator Evans, in 1854; Mr. Brown, in 1856; and the act of May 15, A. D. 1828, show a repeated recognition of the contract on the part of Congress.

In the act specified the officers are acknowledged as the creditors of the government, and not considered as pensioners.

In the case of Doctor Baird *vs.* The United States, in which he claimed half-pay for life under the act of October, 1780, (his commutation of five years' full pay having been paid by special act of Congress,) the Court of Claims decided that the petitioner was entitled to half-pay for life, and that the acceptance of a less sum in the way of commutation did not discharge the original contract. The Court allowed the claim with interest, and the decision was approved by Congress, and the money paid to the claimant.

This decision, together with the action of Congress, your memorialists regard as a judicial and legislative construction of the rights of other claimants embraced in the same contract, and founded on the same principles, considering the "commutation act" as not annulling the provisions of the half-pay act; the claims of Doctor Baird and all others embraced in the latter are based upon the same principles.

Such is the nature of the relief desired by this memorial. It is not asked as a matter of bounty, or pension, but as the fulfilment of a contract—the *bona fide* payment of creditors.

Your memorialists submit whether the plighted faith and honor of the country does not demand that the just and legal claims of the half-pay officers be fully cancelled without unnecessary delay.

The half-pay act of October, 1780, was recommended and urged by Washington as just and necessary to meet the trying exigencies of the nation; subsequently he commended the act as having secured the end designed. He viewed its provisions as no more than a reasonable compensation offered by Congress at a time when they had nothing else to give to the officers of the army for services to be performed. He regarded it as the means of securing the continuance of their necessary service.

The reward was gallantly won at the point of the sword. In the words of Washington (in reference to this act) "It was a part of their hire, the price of their blood, and of the freedom and independence of the nation."

Your memorialists would therefore pray that this debt of honor—the payment of which has been so long deferred, and which is estimated not to exceed one cent to each inhabitant of the country—may be speedily cancelled.

They ask it as a disbursement to creditors, who have no other means of redress than the language of solicitation.

They ask it as a relief, which is due to many widows and orphans who are bending under the pressure of penury and want.

They ask it as a claim, which has been pronounced to be strictly legal and just by distinguished statesmen and jurists who have honored our national legislature.

Per order, and in behalf of the Massachusetts Society of the Cincinnati.

ALFRED L. BAURY.
JAMES W. SEVER.
DANA CLAYES.
JOHN HOMANS.

Boston, *December 22, 1858.*